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11 UNITED STATES BANKRUPTCY COURT
12
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 (San Francisco Division)

16 In re:) Case No. 14-31049
17)
18 CHENG-YI WANG and CHING-YI) CHAPTER 13
19 WANG,)
20 Debtors.) **OBJECTION TO CLAIM OF**
21) **EXEMPTION**
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23)
24)
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30 Comes Now, secured creditor Mary Wang Oskamp (“Oskamp”) and submits the
31 following objection to Debtors’ Chapter 13 Plan (Doc#16) (“Plan”) filed by on July 30, 2014
32 by Debtors Cheng-Yi Wang and Ching-Shi Wang’s (jointly “Debtors”) claim of exemption
33 as follows:
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35 **Objection to Claim of Exemption**

36 Oskamp hereby objects to Debtor’s claim of exemption set forth in Schedule C-Property
37 Claimed As Exempt (“Schedule C”)(Docket#12, page 5 of 13), specifically Debtors’ claim of
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39 **Objection to Claim of Exemption**

1 exemption of \$175,000.00 made pursuant to California Code of Civil Procedure Section¹
2 704.730 (a)(3) on the grounds that CCP 708.730 (a)(3) does not apply to Debtors who,
3 among other things, are not residents of the United States, are not residents of the State of
4 California, do not reside at 1270 Millbrae Avenue, Millbrae, CA 94030 ("Real Property"),
5 the Real Property is not Debtors' residence, and may have misapplied the alleged exemption
6 amount, ie. Debtors' Schedule I omits Debtors' ages, Debtors are not disabled given their
7 self-employment, and Debtors' income is above the applicable limit.

8 CCP 704.710 provides definitions relating to the exemption asserted by Debtors,
9 including: "708.710 (a) "Dwelling" means a place where a person resides . . ." and
10 "708.710 (c) "Homestead" means the principal dwelling (1) in which the judgment debtor or
11 the judgment debtor's spouse resided on the date the judgment creditor's lien attached to the
12 dwelling, and (2) in which the judgment debtor or the judgment debtor's spouse resided
13 continuously thereafter until the date of the court determination that the dwelling is a
14 homestead . . ."

15 CCP 704.730 provides, in pertinent part, that:

16 "(a) The amount of the homestead exemption is one of the following:

17 (1) Seventy-five thousand dollars (\$75,000) unless the judgment
18 debtor or spouse of the judgment debtor who resides in the homestead
19 is a person described in paragraph (2) or (3).

20 (2) One hundred thousand dollars (\$100,000) if the judgment debtor
21 or spouse of the judgment debtor who resides in the homestead is at
22 the time of the attempted sale of the homestead a member of a family
23 unit, and there is at least one member of the family unit who owns no
24 interest in the homestead or whose only interest in the homestead is
25 a community property interest with the judgment debtor.

26 (3) One hundred seventy-five thousand dollars (\$175,000) if the
27 judgment debtor or spouse of the judgment debtor who resides in the
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¹Hereinafter CCP.

1 homestead is at the time of the attempted sale of the homestead any
2 one of the following:

3 (A) A person 65 years of age or older.

4 (B) A person physically or mentally disabled who as a result of
5 that disability is unable to engage in substantial gainful
6 employment. There is a rebuttable presumption affecting the burden of
7 proof that a person receiving disability insurance benefit payments
8 under Title II or supplemental security income payments under Title
9 XVI of the federal Social Security Act satisfies the requirements of
10 this paragraph as to his or her inability to engage in substantial
11 gainful employment.

12 (C) A person 55 years of age or older with a gross annual income
13 of not more than twenty-five thousand dollars (\$25,000) or, if the
14 judgment debtor is married, a gross annual income, including the
15 gross annual income of the judgment debtor's spouse, of not more than
16 thirty-five thousand dollars (\$35,000) and the sale is an
17 involuntary sale.”

18 Dated: September 11, 2014

19 Campeau Goodsell Smith.
20 /s/William J. Healy, Esq.
21 William J. Healy, Esq.
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Objection to Claim of Exemption